

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6825

BILL NUMBER: HB 1255

NOTE PREPARED: Jan 8, 2012

BILL AMENDED:

SUBJECT: Residency Requirements for Elected Officials.

FIRST AUTHOR: Rep. VanDenburgh

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Ceases to Reside in District-* The bill provides that an elected official who ceases to reside in the election district of the elected office vacates the office on the date the individual ceases to reside in the election district. The bill requires an elected official who intends to cease residency in the elected office's election district to give notice of the elected official's resignation not later than 30 days before the elected official ceases residency in the election district.

File Petition- The bill provides that a voter who resides in the election district of an elected official may file a petition with the legislative body associated with the elected office to determine whether the elected official has ceased residency in the election district.

Determination of Residency- The bill describes the procedure for the legislative body to make a determination regarding the residency of an elected official. The bill defines the status of an elected official whose residency is questioned before and after the legislative body makes a determination.

De Facto Officer- The bill provides that an individual who holds an elected office and exercises the powers and duties of the elected office after the individual ceases to be a resident of the election district of the elected office is considered a de facto officer. The bill specifies that the acts of an individual acting as a de facto officer are not subject to challenge based on the individual's status as a de facto officer.

Repealer- The bill repeals a superseded statute relating to removal from office of a town board member who ceases to reside in the election district.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Determination of Residency-* With respect to a petition to determine residency of a state office holder, a member of the General Assembly or a Supreme Court Justice, the hearing to determine residency would occur according to the rules of the Supreme Court, the General Assembly, and current law. Therefore, any additional hearings that may occur would depend on the action of those bodies with respect to their rules, procedures, and current law.

Explanation of State Revenues: *Determination of Residency-* If an elected state official, a member of the General Assembly, or a Supreme Court Justice was determined to not be residing in their election district, they could be required to entirely or partially reimburse the state for compensation paid during their service after leaving their district.

Court Fee Revenue: Petitioners, and respondents that are not holders of either a judicial office or a legislative office (member of either the Indiana Senate or House of Representatives) would be allowed to appeal the decision of residency to a trial court. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

However, a respondent that holds a judicial office or is a member of the General Assembly cannot appeal a residency decision made by the legislative body.

Explanation of Local Expenditures: *Determination of Residency-* Local elected officers that are challenged by a petitioner would have a hearing before the appropriate local body within 45 days of a petition being filed. This provision could increase the number of meetings and increase the per diem paid to the members of the local elected body as a result of petitions. However, the additional expenditures would likely be small.

Explanation of Local Revenues: *Court Fee Revenue:* Petitioners, and respondents that are not holders of a judicial office would be allowed to appeal the decision of residency to a trial court. If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: All elected state officers, State Supreme Court, Indiana Appellate Court, General Assembly.

Local Agencies Affected: All locally elected officers and judges.

Information Sources:

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